

E & R AMENDMENTS TO LB 1086

Introduced by Enrollment and Review Committee: Flood, 19,  
Chairperson

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Sections 1 to 5 of this act shall be known  
4 and may be cited as the Nebraska Prostitution Intervention and  
5 Treatment Act.

6           Sec. 2. The Legislature finds that:

7           (1) Increasing prostitution in Nebraska has become  
8 harmful to communities and neighborhoods, often contributing  
9 to both incidents of crime and fear of crime. Prostitution  
10 depletes local law enforcement resources and leads to a reduction  
11 in the quality of life for the residents and businesses that  
12 are within close geographic proximity to concentrated areas of  
13 prostitution. Prostitution-related activities create noise, litter,  
14 and harassment of residents and businesses and promote declining  
15 property values. Residents and businesses in areas within close  
16 geographic proximity to prostitution-related activity often feel  
17 threatened when solicitors proposition on their streets or when  
18 prostitution-related activities are performed in parked cars, empty  
19 parking lots, or alleyways;

20           (2) Many prostitutes use prostitution to support drug  
21 and alcohol addictions. In addition, many prostitutes suffer  
22 from significant mental health disorders that lead to increased  
23 dependency on drugs and alcohol. When panderers are involved, the



1 prostitutes are often subject to physical and psychological abuse;

2 (3) Solicitors of prostitution are equally contributing  
3 sexual offenders;

4 (4) Resources are needed to coordinate and deliver an  
5 array of community-based services to address issues related to  
6 prostitution, including, but not limited to, lifestyle choices,  
7 substance abuse, mental health disorders, workforce assessment and  
8 preparation, education, and other community-based services;

9 (5) A coordinated array of community-based services  
10 delivered to individuals engaged in prostitution-related activity  
11 can mitigate individual lifestyle choices and break the cycle of  
12 prostitution; and

13 (6) The quality of life for residents and businesses can  
14 be drastically improved when the prevalence of prostitution-related  
15 activity is significantly reduced or removed within residential and  
16 business areas.

17 Sec. 3. It is the intent of the Legislature to provide  
18 funds for education and treatment of individuals involved in  
19 prostitution-related activities.

20 Sec. 4. (1) The Legislature shall appropriate funds  
21 to create a coordinated program of education and treatment for  
22 individuals that participate in prostitution-related activities as  
23 described in section 28-801.

24 (2) The Department of Health and Human Services Finance  
25 and Support, in consultation with the regional behavioral health  
26 authorities, shall distribute funds to regional behavioral health  
27 authorities that can demonstrate to the department a high incidence



1 of prostitution within the behavioral health region. The department  
2 may consider the following criteria for regional behavioral health  
3 funding under this section:

4 (a) The number of criminal convictions for  
5 prostitution-related activities within the counties that comprise  
6 the regional behavioral health authority;

7 (b) Evidence that prostitution-related activities are  
8 impacting residential areas and businesses and the quality of life  
9 of residents in such areas and businesses is negatively impacted;

10 (c) The amount of local law enforcement resources devoted  
11 specifically to curtailing prostitution-related activity;

12 (d) Evidence that the regional behavioral health  
13 authorities consulted with recognized neighborhood and business  
14 associations within geographic proximity to concentrated areas of  
15 prostitution; and

16 (e) The amount of local subdivision treatment funding.

17 Each regional behavioral health authority may contract  
18 with qualifying public, private, or nonprofit entities for the  
19 provision of such education and treatment. Such qualifying entities  
20 may obtain additional funding from cities and counties to provide a  
21 coordinated program of treatment and education for individuals that  
22 participate in prostitution-related activities.

23 Sec. 5. The Department of Health and Human Services  
24 Finance and Support shall adopt and promulgate rules and  
25 regulations to carry out the Nebraska Prostitution Intervention and  
26 Treatment Act.

27 Sec. 6. Section 28-101, Revised Statutes Cumulative



1 Supplement, 2004, is amended to read:

2 28-101 Sections 28-101 to 28-1350 and section 8 of this  
3 act shall be known and may be cited as the Nebraska Criminal Code.

4 Sec. 7. Section 28-801, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 28-801 (1) Any person who performs, offers, or agrees to  
7 perform any act of sexual contact or sexual penetration, as those  
8 terms are defined in subdivision (6) of section 28-318, with any  
9 person not his or her spouse, in exchange for money or other thing  
10 of value, commits prostitution.

11 (2) Prostitution is a Class I misdemeanor. Any person  
12 convicted of violating subsection (1) of this section shall be  
13 punished as follows:

14 (a) If such person has had no prior convictions or has  
15 had one prior conviction, such person shall be guilty of a Class  
16 II misdemeanor. If the court places such person on probation, such  
17 order of probation shall include, as one of its conditions, that  
18 such person shall satisfactorily attend and complete an appropriate  
19 mental health and substance abuse assessment conducted by a  
20 licensed mental health professional or substance abuse professional  
21 authorized to complete such assessment; and

22 (b) If such person has had two or more prior convictions,  
23 such person shall be guilty of a Class I misdemeanor. If the  
24 court places such person on probation, such order of probation  
25 shall include, as one of its conditions, that such person shall  
26 satisfactorily attend and complete an appropriate mental health and  
27 substance abuse assessment conducted by a licensed mental health



1 professional or substance abuse professional authorized to complete  
2 such assessment.

3 For purposes of this subsection, prior conviction means  
4 any conviction on or after the effective date of this act for  
5 violation of subsection (1) of this section or any conviction on  
6 or after the effective date of this act for violation of a city or  
7 village ordinance relating to prostitution.

8 Sec. 8. (1) Any person who solicits another person not  
9 his or her spouse to perform any act of sexual contact or sexual  
10 penetration, as those terms are defined in section 28-318, in  
11 exchange for money or other thing of value, commits solicitation of  
12 prostitution.

13 (2) Any person convicted of violating subsection (1) of  
14 this section shall be punished as follows:

15 (a) If such person has had no prior convictions, such  
16 person shall be guilty of a Class I misdemeanor and pay a  
17 fine of not less than two hundred fifty dollars. If the court  
18 places such person on probation, such order of probation shall  
19 include, as one of its conditions, the payment of a fine of  
20 not less than two hundred fifty dollars and such person shall  
21 satisfactorily attend and complete an appropriate mental health and  
22 substance abuse assessment conducted by a licensed mental health  
23 professional or substance abuse professional authorized to complete  
24 such assessment; and

25 (b) If such person has had one or more prior convictions,  
26 such person shall be guilty of a Class IV felony and pay a fine of  
27 not less than five hundred dollars. If the court places such person



1 on probation, such order of probation shall include, as one of its  
2 conditions, the payment of a fine of not less than five hundred  
3 dollars and such person shall satisfactorily attend and complete an  
4 appropriate mental health and substance abuse assessment conducted  
5 by a licensed mental health professional or substance abuse  
6 professional authorized to complete such assessment.

7           Sec. 9. Section 28-804.01, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           28-804.01 In all cases arising under sections 28-801 to  
10 28-804 and section 8 of this act, no person shall be excused  
11 from testifying against another person by reason of such testimony  
12 tending to incriminate the person testifying, but the testimony  
13 so given, unless voluntary, shall in no case be used against the  
14 person so testifying in any criminal prosecution or otherwise.

15           Sec. 10. Original sections 28-801 and 28-804.01, Reissue  
16 Revised Statutes of Nebraska, and section 28-101, Revised Statutes  
17 Cumulative Supplement, 2004, are repealed.

18           2. On page 1, strike beginning with "funds" in line 1  
19 through line 3 and insert "crimes and offenses; to amend sections  
20 28-801 and 28-804.01, Reissue Revised Statutes of Nebraska, and  
21 section 28-101, Revised Statutes Cumulative Supplement, 2004; to  
22 adopt the Nebraska Prostitution Intervention and Treatment Act; to  
23 change and provide penalties relating to prostitution; to provide  
24 for the crime of solicitation of prostitution; to change provisions  
25 relating to testimony as prescribed; to harmonize provisions; and  
26 to repeal the original sections."